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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

DEC 14 1995

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of
Amendment of Section 73.202(b),
Table of Allotments, FM Broadcast
Stations (Littlefield, Wolfforth
and Tahoka, Texas)

MM Docket
No. 95-83

DOCKET FILE COPY ORIGINAL

To: Chief, Allocations Branch

OPPOSITION TO
"MOTION TO DISMISS SUPPLEMENT TO REPLY COMMENTS
OF LEE W. SHUBERT, TRUSTEE"
FILED BY PETITIONER 21st CENTURY RADIO VENTURES, INC.

Lee W. Shubert, Trustee, the licensee of KLLL(FM),
Lubbock, Texas ("KLLL"), respectfully submits this Opposition to
the Motion filed on November 30, 1995 by 21st Century Radio
Ventures, Inc. ("Petitioner") to Dismiss KLLL's Supplement to its
Reply Comments.

Petitioner notes that Rule 1.415(d) of the Commission's
rules states that no additional comments may be filed unless
authorized by the Commission. But that is precisely the
authorization sought by KLLL in requesting leave to file its
supplement. See Supplement n.1. Petitioner contends that KLLL's
supplement adds "nothing that was not already stated" in its
Reply Comments. This is demonstrably untrue. The Supplement
addressed the recent filing on October 10 of Petitioner's
application for an extension of its Littlefield permit -- an

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event that occurred well *after* the end of the pleading cycle in this matter. This Supplement makes clear that Petitioner has no intention of building the Littlefield facility for which it initially applied. Indeed, based on even more recent filings, this bait-and-switch approach would appear to be a *modus operandi* for Petitioner. See Amendment of Section 73.202(b) Table of Allotments FM Broadcast Stations (Sibley, IA and Brandon, SD), filed Nov. 9, 1995 (wherein Petitioner seeks another modification of its construction permit to relocate closer to Sioux Falls, South Dakota, within 8 months after the grant of that permit); Amendment of Section 73.202(b) Table of Allotments for FM Broadcast Stations (Bagdad and Chino Valley, AZ), filed Nov. 7, 1995 (wherein Petitioner also seeks modification of its construction permit to relocate closer to Prescott, Arizona, within 12 months after the grant of that permit).

These multiple requests for modifications^{1/} render Petitioner's expressed concern for "strained Commission resources" a good deal less than credible. Indeed, they indicate that Petitioner is involved in a pattern of applying for construction permits in one community determined by the Commission to need additional FM service, representing to the Commission its readiness and intention to construct such

^{1/} KLLL has been unable to determine whether Petitioner has filed or intends to file any such additional petitions in other markets. Petitioner has filed applications for FM construction permits applications in other markets, see, e.g., Minetto Radio Partners, File No. BPH-940411MF (application returned by letter dated Dec. 15, 1994) (requesting constuction permit for Channel 293A at Minetto, New York, approximately 30 miles from Syracuse, New York). Prior to any actions in this case, the Commission should require Petitioner to provide such information.

facilities, and then promptly using that permit as a stepping-stone to abandon such proposed service to move closer to more desirable markets. This appears to be precisely the kind of "manipulation" of the table of allocations that the Commission has refused to countenance. See Amendment of the Commission's Rules Regarding Modification of FM and TV Authorizations to Specify a New Community of License, 5 FCC Rcd 7094, 7096 (1990).

For the reasons set forth above, the Commission should deny Petitioner's motion to dismiss KLLL's Supplement to Reply Comments, and should deny the petition to amend Section 73.202(b) of the rules.

Respectfully submitted,

LEE W. SHUBERT, TRUSTEE


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Its Attorney

December 14, 1995

CERTIFICATE OF SERVICE

I, Thomas M. Clark, hereby certify that on this 14th day of December, 1995, I caused to be delivered by first class mail, postage prepaid, copies of the foregoing Opposition to Motion to Dismiss Supplement to Reply Comments of Lee W. Shubert, Trustee, to the following, at the addresses listed below:

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* By Hand.